

Message

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**From:** Ex. 6 Personal Privacy (PP) [redacted]@gmail.com]  
**Sent:** 4/28/2022 3:29:40 PM  
**To:** Rau, Ben (ECY) [benr461@ECY.WA.GOV]; Sandison, Derek (AGR) [dsandison@agr.wa.gov]; Laura (ECY) [lawa461@ecy.wa.gov]  
**CC:** Daniel (AGR) [DSulak@agr.wa.gov]; Pirzadeh, Michelle [Pirzadeh.Michelle@epa.gov]; Julia.Reitan@washington.sierraclub.org; Regan, Michael [Regan.Michael@epa.gov]; Eoc, Epahq [Eoc.Epahq@epa.gov]; Kyrre (AGR) [KFlege@agr.wa.gov]; washington@tnc.org; Anson.Tebbetts@vermont.gov; Terry.Smith@vermont.gov; psa@pugetsoundkeeper.org; Peak, Nicholas [Peak.Nicholas@epa.gov]; Andrew Hawley [hawley@westernlaw.org]; Craig Bowhay [cbowhay@nwifc.org]; steveo@co.skagit.wa.us; rickh@co.skagit.wa.us; mpia461@ecy.wa.gov; Jamila (GOV) [Jamila.Thomas@gov.wa.gov]; Blackmore, Laura (PSP) [laura.blackmore@psp.wa.gov]; Alex (PSP) [alex.mitchell@psp.wa.gov]; Ahren (PSP) [ahren.stroming@psp.wa.gov]; RCO MI General Info (RCO) [info@rco.wa.gov]; Kyle K (DFW) [Vincent.Adicks@dfw.wa.gov]; Erik (GSRO) [erik.neatherlin@gsro.wa.gov]; Marty (ECY) [MAJA461@ecy.wa.gov]; info@charlietebbutt.com; info@blueriverlaw.com; jlaughlin@cascwild.org; nick@cascwild.org; nrdcinfo@nrdc.org; [redacted]@gmail.com; blanouette@upperskagit.com; michaelk@skagitlandtrust.org; vonessen.ashley@nisqually-nsn.gov; Epstein, Larry (PSP) [larry.epstein@psp.wa.gov]; diane.hennessey@epa.gov; marine@washington.sierraclub.org; Ex. 6 Personal Privacy (PP) [redacted]@olympus.net; Ex. 6 Personal Privacy (PP) [redacted]@msn.com; Ralph (ECY) [RSVR461@ecy.wa.gov]; hpickernell@chehalistribe.org; andy.joseph@colvilletribes.com; dbarnett@cowlitz.org; lisa.martinez@hohtribe-nsn.org; rallen@jamestowntribe.org; jeromys@pgst.nsn.us; tomwooten@samishtribe.nsn.us; gmiller@skokomish.org; trgobin@tulaliptribes-nsn.gov; delano\_saluskin@yakama.com; bill.sterud@puyalluptribe-nsn.gov; nmaltos@sauk-suiattle.com; ewhite@stillaguamish.com  
**Subject:** Re: FW: Pioneer Highway Near Silvana and Other Dairy Manure Applications

Why not simply eliminate at least the one easy non point agricultural pollution sources...application in flood plains like other states shown to be without burden to agriculture?

Ms. Watson and Mr. Sandison, I understand these rivers flood frequently during the winter...just in case you are not aware of that...easily interpreted recent Nooksack drainage pictures below. Other listed drainages would be similar, I can email them to you if desired. You may recall I have definitively shown the agricultural non point pollution occurs in flood plains during the flooding season through pictures from last winter. Others have shown this as well.

Your rationale for not doing so is...?

Thanking your kind response in advance, in Stanwood, I am

Ex. 6 Personal Privacy (PP) [redacted]

# Agricultural Pollution in Puget Sound:

Inspiration to Change Washington's  
Reliance on Voluntary Incentive  
Programs to Save Salmon

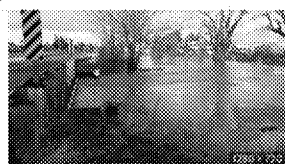
## Nonpoint Sources of Pollution Impede Salmon Recovery Efforts

Ecology and the Washington State Department of Agriculture (WSDA) recognize the threat to salmon survival caused by ongoing nonpoint source pollution to our waters.<sup>70</sup> The poor water quality in Skagit and Whatcom counties, largely due to agricultural sources, is a particular area of concern because the rivers support salmon populations for several salmon species and the area's water quality directly impacts the many shellfish beds along the counties' coasts. The Samish, Stillaguamish, and Nooksack watersheds have consistently had the highest annual yields of nitrogen relative to their size of all Puget Sound area watersheds.<sup>71</sup>

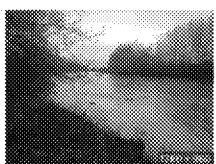
April 2016



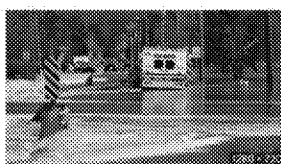
Western  
Environmental  
Law Center



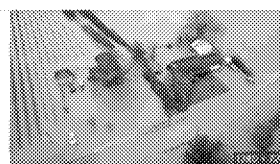
02-01-2020 Everson, WA Cars Submerged; Dike B...  
youtube.com



Minor flooding expected on Nooksack...  
agriculture.com



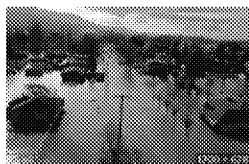
02-01-2020 Everson, WA Water Rescue; Flooding o...  
youtube.com



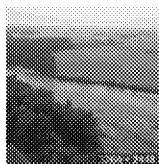
I-5 response; Whatcom County prepares for floodin...  
figured.com



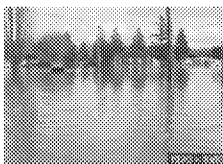
Whatcom County flooding ...  
dick.com



North Sound city underwater after Nooksack...  
knox.com



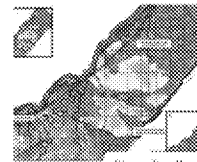
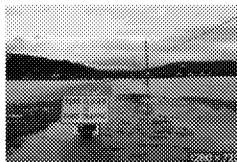
Flooded wetland issued for No...  
knox.com



It's a great community: Whatcom Count...  
knox.com



The Nooksack River - Solutions on the Floodp...  
whatcomwatch.org



On Mon, Apr 25, 2022 at 10:51 AM **Ex. 6 Personal Privacy (PP)** @gmail.com wrote:  
Mr. Rau, Ms. Watson, and Mr. Sandison,

Thank you Mr. Rau,

It appears as if the roster of the Agriculture and Water Quality Advisory Committee is heavily weighted in favor of agriculture and there are two environmental advocates, and Ms. Skinner has been absent for years as you point out and Mr. Hawley is a tacit replacement being in listening mode a few years ago as well. Mr. White is what would be an observer as he is not a member though attending per your roster.

Being that Mr. Sandison likes data, I see 17 members, excluding Ms. Watson as unbiased for the state. With the absent Ms. Skinner as one environmental advocate and Ms. Barton, we have  $2/17 = 12\%$  of the committee as an environmental advocates, which as you point out for the last few years has been effectively 6% due to Ms. Skinner's absence. Thus, the Agriculture and Water Quality Advisory Committee has perhaps one environmental advocate, Ms. Barton, hardly by any stretch of the imagination a balanced group to discuss the future of the Washington State waters even if there are a few other unbiased members counted incorrectly. In contrast, I will place the Oklahoma Nonpoint Source Working Group organizational list below. We see that if government agencies are generally "unbiased" agriculture and petroleum special interests are circled in red and environmental advocates are circled in blue. We can see that even with some labeling errors, there are more environmental advocates than agriculture and petroleum. Perhaps maybe 50/50 worse case, but not a lopsided agriculture majority as we have in Washington state with the Agriculture and Water Quality Advisory Committee. The point being is other states are more "inclusive", why is Washington not such a "inclusive" state representing more committee environmental and cultural stakeholders, including the Tribes as does Oklahoma in important decisions which affect them?

From this current heavily weighted agricultural composition all "consensus" it can be seen voting by the Agriculture and Water Quality Advisory Committee is controlled by special interests and their desires.

As such, unless you specifically desire such a biased group devoid of tribal and environmental advocates, it would seem that you must recruit 7-8 members from the treaty Tribes, Northwest Indian Fisheries, and Environmental groups. This stakeholder deficiency needs to be the focus of the next Agriculture and Water Quality Advisory Committee meeting. As you may be aware, our Governor is quite interested in "environmental equity and being inclusive", are you complying with his wishes? Perhaps Ms. Thomas can bring this deficit to the Governor's attention?. Furthermore, this "rebalancing" needs to be maintained and in place before any "consensus" voting takes place. And, any voting would need to be by all members of this rebalanced committee, not just those "present" for a particular meeting.

I have briefly reviewed the current (2015) "Non point Water Quality Plan". As you are likely aware, non-point agricultural pollution in flood plains has been and continues to be a serious problem as documented in prior emails and various other reports. Yet, this "Non point Water Quality Plan " does not address floodplain nonpoint agricultural pollution at all, a serious failing of this document for a problem known for so long, appearing to be conspicuously absent, clearly a subject of great importance in most every other state except Washington. Though this document is planned to be "updated" this year as you mention, as handled by other states, flood plain agricultural pollution should and needs to be addressed in its own plan and referenced in the "Non point Water Quality Plan" . I will attach the Vermont plan as a working example, and of course the document needs to be crafted by a balanced group of stakeholders including tribals and environmental representatives.

Because of these multiple failings, the composition of a unbalanced Agriculture and Water Quality Advisory Committee, and the continued ongoing demonstrated failures best described as feeble attempts of ECY and ESDA to control non point agricultural nonpoint pollution control in flood plains, I continue to call upon Ms. Watson and Mr. Sandison to form a working group to address these issues in the form of establishing regulations prohibiting flood plain manure applications in the flooding season as recommended by the USDA and successfully implemented by many other states shown to be without undue burden to agriculture. The Washington model with previously provided objective evidence clearly shows that through voluntary

compliance and farmers applying manure during the flooding season frequently leads to unnecessary agricultural non point pollution without consequence or penalty resulting in an agricultural mindset of acceptable environmental negligence.

Should the steps mentioned above not be implemented to balance the Agriculture and Water Quality Advisory Committee, create a Non-Point Agricultural Floodplain Working Group, and take steps to eliminate unnecessary non point pollution in floodplains shown to be without burden to agriculture, Ms. Watson and Mr. Sandison are complicit with agriculture special interests in ignoring what is best for Washington state and catering to agricultural special interests. The time has come to shed the influence of special interests and do what is best for the people of Washington instead.

I can only hope I am entirely wrong and Ms. Watson and Mr. Sandison can justify their positions of allowing or their inability to control needless preventable flood plain pollution to occur. The well accepted proven solution without burden to agriculture is simply to prohibit manure applications during the flood prone season, a method also espoused by the USDA as an agricultural BMP. The more information which comes to light about water quality and agriculture in Washington state, the more it keeps appearing biased in favor of agriculture at the expense of the environment and native cultures, even with the Agriculture and Water Quality Advisory Committee membership composition now fully lacking tribal input and heavily weighted towards agriculture...the voices for the fish and endangered species are virtually non existent and the fish populations keep declining.

Perhaps for dinner tonight some tasty passenger pigeon fricassee Ms. Watson and Mr. Sandison? It is quite likely they would say before becoming extinct it tasted like "chicken", what do you think? I suppose someday in the future they'll likely believe the salmon tasted "fishy" unless smoked.

It is difficult to fathom that the reported passenger pigeon migrations used to darken the skies, now none exist, billions to extinct, 3-5 billion as estimated by Smithsonian. Likewise there used to be so many salmon here they looked as if they could be walked upon across a stream, now so few and endangered. How much more time do the salmon have until they suffer the fate of the passenger pigeon, billions to none? Are the synthetic salmon hatcheries a solution, or simply an indication of a significantly deeper problem with water quality, natural spawning areas, and habitat...in part by entirely preventable flood plain no point agricultural pollution? Are we not better to eliminate the source of known pollution which degrades the environment entirely when possible, particularly when it is not burdensome to do so? To help indigenous peoples maintain their cultural traditions? Are the unnecessary special benefits to agriculture worth these losses to benefit a few farmers? Perhaps different reasons between passenger pigeons and salmon for extinction, but still the same end result from the same quantities, originally in the billions.

Please keep in mind, the purpose of these emails is not to be critical of individuals, just to point out that there are significantly better alternatives to existing regulations and policies based on current and past observations in the form of chronic unnecessary nonpoint agricultural pollution in flood plains and those individuals in positions of authority, though having good intentions, are not pursuing the best paths for the desired results for the better good of the general population in Washington state even when there is no burden to the affected few caused by the change.

Awaiting the courtesy of your reply(s) Ms. Watson and Mr. Sandison for your justification of continuing with unburdensome preventable non point agricultural pollution in floodplains amid ever declining fish populations, and resulting cultural losses, and for Mr. Rau, developing a more inclusive Agriculture and Water Quality Advisory Committee, Please keep me informed of your progress.

in Stanwood, I am,

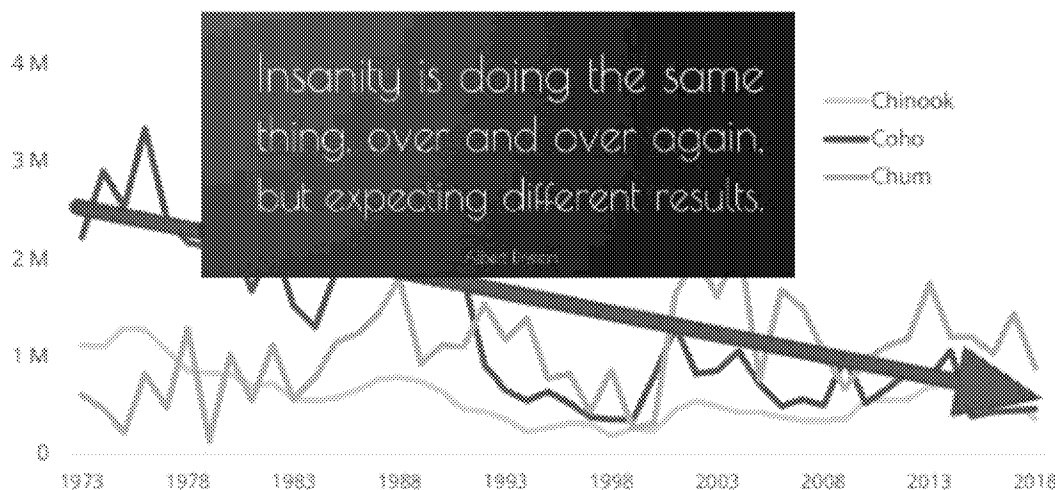
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<https://conservation.ok.gov/wq-nps-working-group/>

## Nonpoint Source Working Group – PARTICIPANTS OKLAHOMA

AEP	Oklahoma Farm Bureau
American Farmers & Ranchers	Oklahoma Geological Survey
Association of Central OK Governments	Oklahoma Independent Petroleum Association
Bureau of Land Management	Oklahoma Municipal League
Bureau of Reclamation	Oklahoma Rural Water Association
City of Oklahoma City	Oklahoma Scenic Rivers Commission
City of Tahlequah	Oklahoma Secretary of the Environment
City of Tulsa	Oklahoma State University
Environmental Protection Agency Region 6	Oklahoma Water Resources Board
Farm Service Agency	Osage Tribe
Indian Nations Council of Governments	OU Health Sciences Center
Inter-tribal Environmental Council	OU Water Center
Land Legacy	Pawnee Tribe
Natural Resource Conservation Service	Poteau Valley Improvement Authority
Nature Conservancy	Save the Illinois River
Oklahoma Association of Conservation Districts	Sierra Club
Oklahoma Cattlemen's Association	Tulsa Municipal Utility Authority
Oklahoma Corporation Commission	University of Oklahoma
Oklahoma Dept. of Agriculture, Food & Forestry	U.S. Army Corps of Engineers
Oklahoma Dept. of Environmental Quality	U.S. Fish and Wildlife Service
Oklahoma Dept. of Transportation	U.S. Geological Survey
Oklahoma Dept. of Wildlife Conservation	

## Salmon harvest, commercial and recreational catch



Source: Washington Department of Fish and Wildlife. Data is for hatchery and wild coho, chum, and Chinook salmon caught (tribal and non-tribal) in the state's rivers and the ocean as reflected on sport catch record cards and commercial landings.

On Fri, Apr 22, 2022 at 4:38 PM Rau, Ben (ECY) <[benr461@ecy.wa.gov](mailto:benr461@ecy.wa.gov)> wrote:

Hello [redacted] You are right. She has not attended meetings for the last several years and I don't think I have her contact info. From environmental groups Alyssa Barton from Puget Soundkeeper and Jerry White from the Spokane Riverkeeper are the two that have attended meetings recently. Andrew Hawley was the last person from the Western Environmental Law Center to attend a meeting- and that was pre-covid. Trying to remember but I think he came in more of a listening mode. Not sure what Andrew's contact info is. Here is the WELC website:  
<https://westernlaw.org/about-us/staff/>

Hopefully this helps. Ben

From: [redacted] Ex. 6 Personal Privacy (PP) [redacted]@gmail.com>

Sent: Friday, April 22, 2022 4:19 PM

To: Rau, Ben (ECY) <[benr461@ECY.WA.GOV](mailto:benr461@ECY.WA.GOV)>

Subject: Re: FW: Pioneer Highway Near Silvana and Other Dairy Manure Applications

As long as you are there yet, do you have contact information for Ms. Skinner from the W Susanne Skinner ?

Has she been active? It seems they (Susanne Skinner) have no contact information for her and she is noted as the primary for the committee.

Thank you,

Ex. 6 Personal Privacy (PP)

On Fri, Apr 22, 2022 at 4:13 PM Rau, Ben (ECY) <[benr461@ecy.wa.gov](mailto:benr461@ecy.wa.gov)> wrote:

Hello [REDACTED] Have a good weekend too. Respectfully, Ben

**From:** [REDACTED] Ex. 6 Personal Privacy (PP) <[REDACTED]@gmail.com>

**Sent:** Friday, April 22, 2022 4:04 PM

**To:** Rau, Ben (ECY) <[benr461@ECY.WA.GOV](mailto:benr461@ECY.WA.GOV)>

**Subject:** Re: FW: Pioneer Highway Near Silvana and Other Dairy Manure Applications

Thank you, i will studythe information you have provided. Have a nice weekend,

Ex. 6 Personal Privacy (PP)

Stanwood, WA

On Fri, Apr 22, 2022 at 9:35 AM Rau, Ben (ECY) <[benr461@ecy.wa.gov](mailto:benr461@ecy.wa.gov)> wrote:

Hello [REDACTED] Ex. 6 Personal Privacy (PP)

Here is the list of members of the Agriculture and Water Quality Advisory Committee. We have this table on our webpage for the group-we don't have a lot of turnover on the committee but when that happens we update the table on the webpage: <https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-committees/Agriculture-and-Water-Quality-Advisory-Committee>

Organization	Representative
Washington Department of Ecology	Director Laura Watson, Co-Chair
Pacific Coast Shellfish Growers Association	Bill Dewey, Co-Chair (primary) Steve Bloomfield

Organization	Representative
Cattle Producers of Washington	Scott Nielson (primary) Ted Wishon
Washington Farm Bureau	Mark Herke (primary) John Pearson
Pacific Northwest Direct Seed Association	Kim Brunson (primary) Ty Meyer Rick Jones
Puget Soundkeeper Alliance	Alyssa Barton (primary) Jerry White
Washington Association of Conservation Districts	Tom Salzer (primary) Javier Lopez
Washington State Water Resources Association	Mike Schwisow
Washington Cattle Feeders Association	Jack Field (primary) Rob Miller
Washington Association of Wheat Growers	Nicole Berg (primary) Eric Maier Larry Cochran
Washington State Dairy Federation	Tony Veiga (primary) Jay Gordon
Washington Cattleman's Association	Toni Meecham (primary) Randy Good
Washington State Potato Commission	Darrin Morrison (primary) Chris Voigt Matt Harris
Washington Association of Wine Grape Growers	Jason Schlagel (primary) Mike Means Mike Schwisow
Washington State Hay Growers Association	Loren Lentz (primary) Mark Herbis
Washington Tree Fruit Association	Jon DeVaney (primary) Ranie Haas( Alternate)
Western Environmental Law Center	Susanne Skinner (primary) Andrea Rodgers Harris
Western Washington Agricultural Association	Brandon Roozen

Regarding the Voluntary Clean Water Guidance. We are currently working on several chapters. Our current schedule is to have five chapters completed by the end of this year:

- Cropping Methods: Tillage & Residue Management
- Sediment Control: Soil Stabilization & Sediment Capture (Structural)
- Livestock Management-Pasture & Rangeland Grazing

- Livestock Management-Animal Confinement, Manure Handling & Storage
- Riparian Areas & Surface Water Protection

We will submit those chapter to EPA as a part of a planned update to our state nonpoint plan. The remaining chapters are planned to be completed by the end of 2025. Again, we will submit those to EPA as a part of a nonpoint plan update that we will be doing that year. Those chapters are:

- Suite of Recommended Practices
- Cropping Methods: Crop System
- Nutrient Management
- Pesticide Management
- Sediment Control: Soil Stabilization & Sediment Capture (Vegetative)
- Water Management: Irrigation Systems & Management
- Water Management: Field Drainage & Drain Tile Management
- Water Management-Stormwater Control & Diversion

Here is a link to our webpage on the guidance. A draft of one chapter is complete and you can get a better idea of where we are going with the guidance by reviewing it: <https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv#:~:text=The%20guidance%20is%20a%20technical,producers%20meet%20clean%20water%20standards>. We will have a public comment period that covers this chapter and the other chapters we will be completing this year in the fall.

If you are interested in taking a look at our nonpoint plan here is a link:  
<https://apps.ecology.wa.gov/publications/documents/1510015.pdf>

Again, we will be updating that plan this year.

Respectfully, Ben

***Ben Rau***

Washington State Department of Ecology  
Water Quality Program, Watershed Planning Unit  
fax: (360) 407-6426

cell: (360) 742-6529  
[ben.rau@ecy.wa.gov](mailto:ben.rau@ecy.wa.gov)

**From:** Ex. 6 Personal Privacy (PP) @gmail.com>

**Sent:** Sunday, April 17, 2022 11:39 AM

**To:** Rau, Ben (ECY) <benr461@ECY.WA.GOV>

**Cc:** Sulak, Daniel (AGR) <DSulak@agr.wa.gov>; Pirzadeh.Michelle@epa.gov; Julia.Reitan@washington.sierraclub.org; Watson, Laura (ECY) <lawa461@ECY.WA.GOV>; Regan.Michael@epa.gov; EOC.EPAHQ@epa.gov; Flege, Kyrre (AGR) <KFlege@agr.wa.gov>; washington@tnc.org; Anson.Tebbetts@vermont.gov; Terry.Smith@vermont.gov; psa@pugetsoundkeeper.org; peak.nicholas@epa.gov; Andrew Hawley <hawley@westernlaw.org>; Craig Bowhay <cbowhay@nwifc.org>; steveo@co.skagit.wa.us; rickh@co.skagit.wa.us; Piazza, Millie (ECY) <mpia461@ECY.WA.GOV>; Thomas, Jamila (GOV) <Jamila.Thomas@gov.wa.gov>; Blackmore, Laura (PSP) <laura.blackmore@psp.wa.gov>; Mitchell, Alex (PSP) <alex.mitchell@psp.wa.gov>; Stroming, Ahren (PSP) <ahren.stroming@psp.wa.gov>; Sandison, Derek (AGR) <DSandison@agr.wa.gov>; RCO MI General Info (RCO) <info@rco.wa.gov>; Adicks, Kyle K (DFW) <Vincent.Adicks@dfw.wa.gov>; Neatherlin, Erik (GSRO) <erik.neatherlin@gsro.wa.gov>; Jacobson, Marty (ECY) <MAJA461@ECY.WA.GOV>; info@charlietebbutt.com; info@blueriverlaw.com; jlaughlin@cascwild.org; nick@cascwild.org; nrdcinfo@nrdc.org; Ex. 6 Personal Privacy (PP) @gmail.com; blanouette@upperskagit.com; michaelk@skagitlandtrust.org; vonessen.ashley@nisqually-nsn.gov; Epstein, Larry (PSP) <larry.epstein@psp.wa.gov>; diane.hennessey@epa.gov; marine@washington.sierraclub.org; Ex. 6 Personal Privacy (PP) @olympus.net; Ex. 6 Personal Privacy (PP) @msn.com; Svrjcek, Ralph (ECY) <RSVR461@ECY.WA.GOV>

**Subject:** Re: FW: Pioneer Highway Near Silvana and Other Dairy Manure Applications

Mr. Rau,

Thank you for contacting me. In the regulated industries I have worked, nothing has never been done unless it has been documented, so, thank you for the offer to call, but documented conversations retained on servers provide the best documentation. Furthermore, documented information serves to preserve action or lack of action to address clearly defined regulatory failures though provided successful solutions implemented elsewhere.

If you have not had a chance to look at the email string, in summary I have been stating that the non-point pollution in floodplains is at best weakly controlled here in Washington state adversely affecting protected salmon species shown by declining populations and is also in violation of the CWA. This has been well documented over time by myself and several other concerned environmental groups, the tribes, and the Governor's office. A review of this email string will provide this documentation in the form of clear concise objective evidence including pictures of flooded manure and applications of manure on frozen snow covered ground as well as reports from the Western Environmental Law Center and the Northwest Indian Fisheries Commission with similar conclusions and calls for action. Likewise submissions to ERTs will show well over a decade of this problem. I have included some of these highlights below after this email text for your convenience and review.

I have requested to Ms. Watson and Mr. Sandison create a focused equally represented advisory group of stakeholders to address this issue as Ms. Watson's and Mr. Sanderson's policies and stated positions preclude the application of USDA best management practices and other similar policies instituted in many states such as Vermont indicating that non point pollution in flood plains can be eliminated without undue burden to agriculture. I see the Agriculture and Water Quality Advisory Committee is quite busy with other activities with the voluntary guidelines and is unable to address this issue in a timely manner.

Ms. Watson's and Mr. Sandison 's position benefits agriculture to the detriment of clean water, salmon populations, and native cultures as shown by the ever decreasing salmon populations. Currently, Ms. Watson and Mr. Sandison condone what may only be called poor agricultural practices, a hold over from special interests of years past allowing manure flood plain applications to the discretion of farmers with no penalty for creating non point pollution when the manure is washed away or contaminates high water tables. This non-point pollution continues year after year, without repercussions as the farmers know they will only be referred to "work with" the Conservation District to talk about and "update" the farm plan. This cause of non point pollution is not new to Ms. Watson and Mr. Sandison, yet it has been ignored for many years, and the continued declining salmon populations and the previously described costs are in part the result of not eliminating a source of non point pollution as other states have successfully done and suggested by USDA best management practices. Nor are the voluntary guidances effective and need to be revisited and revised to include strict penalties.

Mr. Rau, please provide:

- A roster in the form of a membership list, contact information including email addresses, and affiliation of the Agriculture and Water Quality Advisory Committee . Please also include a working group matrix if appropriate
- Status of the voluntary guidance draft which was due 2018 and finalized first practices due Fall 2018. <https://ecology.wa.gov/DOE/files/09/096726e8-5df2-4d33-b958-d1249063d9ad.pdf>

Thank you for providing this information.

I am also looking forward to Ms. Watson or Mr. Sandison explaining their rationale of supporting preventable chronic non point agricultural pollution in floodplains when the best solution is to totally eliminate the source by eliminating the manure applications in a similar manner as implemented by other states and preferred by USDA best management practices. This approach has been shown to be without undue burden to agriculture as well.

If the regulations and policies they espouse are more beneficial in eliminating non-point agricultural pollution than Vermont or USDA guidelines totally eliminating the problem through prohibiting applications during the flooding season, perhaps Ms. Watson and Mr. Sandison can jointly publish their claims using their supporting data there by revolutionizing agriculture manure management, enlightening others active in agricultural management, particularly the USDA. Perhaps, with such ground breaking work, they will be offered jobs as full professors at Cornell as well...or be visiting professors to share their insight and methods.

However, and unfortunately, the data and evidence suggests to most everyone except agriculture which benefits from Ms. Watson's and Mr. Sandison 's policies and regulations is that these regulations only lead to environmental failures in the form of needless and totally preventable non-point pollution in flood plains.

Finally though with the accumulated data and various reports, it is quite easy to be a complaining critic of Ms. Watson and Mr. Sandison, though I am sure that they want the best for Washington state. It is simply that it is time they recognize that superior proven policies and regulations exist without unnecessary burdens to agriculture and that the time to move forward removing the ineffective past policies and regulations is here now. As respective leaders of their agencies, they need to act accordingly eliminating unnecessary and preventable flood plain non point agricultural pollution for the greater benefit of all that live in Washington state instead of maintaining archaic regulations for agricultural special interests.

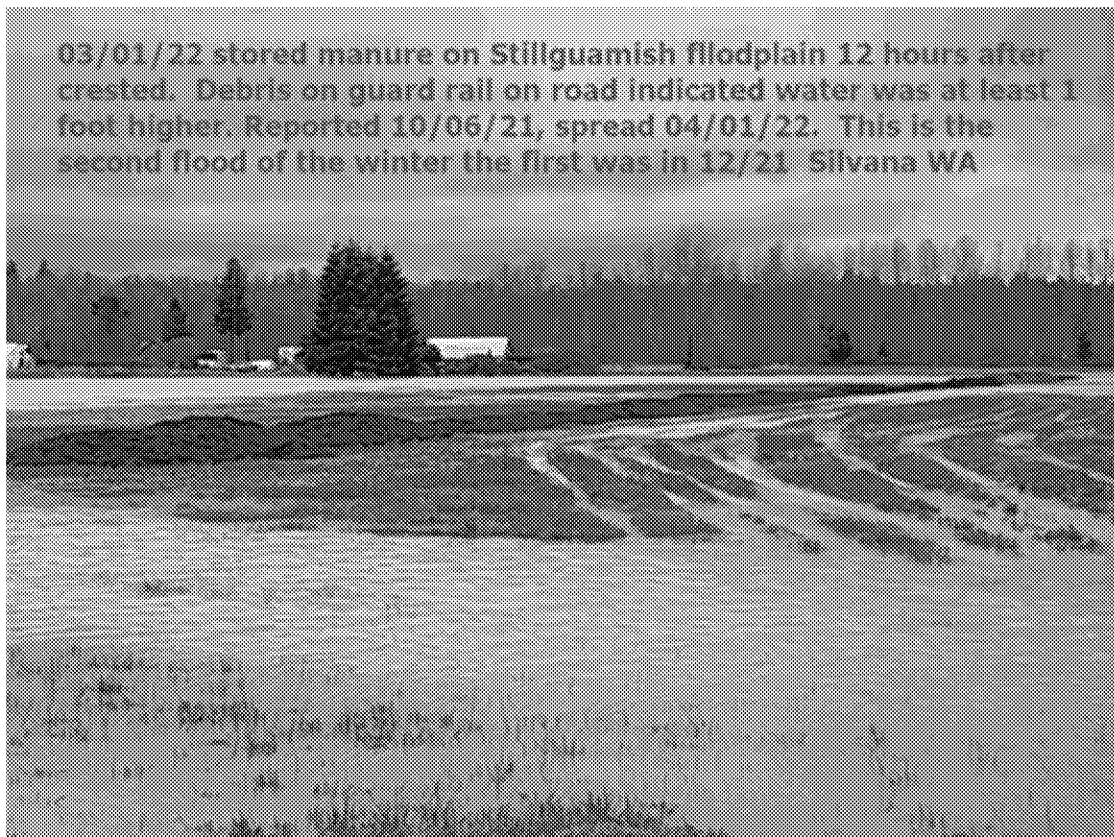
In Stanwood awaiting these timely responses, I am

Ex. 6 Personal Privacy (PP)

#### 16 REASONS FOR A WASHINGTON STATE FLOOD PLAIN AGRICULTURAL NON POINT POLLUTION ADVISORY GROUP TO PROPOSE ELIMINATION OF MANURE APPLICATION IN FLOOD PLAINS DURING THE FLOODING SEASON AS IMPLEMENTED BY OTHER STATES AND SUGGESTED BY THE USDA WITHOUT ADVERSELY AFFECTING AGRICULTURE

1. Graphic evidence through pictures of manure in contact with flood waters and applications to frozen snow covered lands in flood plains, the problem being likely much more extensive due to the relatively small flood plain area surveyed and lack of similar complaints. Multiplied through flood plains of the Skagit, Nisqually, Snohomish and other river systems, this non point agricultural pollution may be projected to be a serious environmental problem leading to lowered salmon populations
2. Historic ERTs complaints over more than a decade describing similar problems
3. Farmers unable to manage lagoons applying manure next to drainage canals during typical rainy periods in October in flood plains claiming typical rainfalls are some unexpected phenomena
4. Comprehensive reports by the Western Environmental Law Center and NWIFC which have not been implemented for non point pollution in flood plains
5. Apparent lack of equal stakeholder representation such as in the Salmon Recovery Funding Board and likely the Agriculture and Water Quality Advisory Committee
6. Reports by ECY and WSDA inspectors indicating "challenges" and farmer's general problems in weather and flood forecasting leading to non point pollution through runoff and floods which has been shown to be a chronic occurrence in the ERTs database in flood plains
7. USDA BMPs / guidance forgoing manure application in flood plains during the flooding season in flood plains
8. An Agriculture and Water Quality Advisory Committee too busy to address or unaware of the non point agricultural pollution problem in floodplains to make it a high priority
9. Millions of taxpayer dollars spent with minimal or no impact, while obvious significant non point agricultural floodplain problems due to special interests are ignored

10. Remaining salmon populations are at less than 5% of historic levels - Western State Environmental Law Center
11. A report from the Governor's office focused on the Loomis bill indicating ever decreasing salmon populations, now at the critical level. The ever decreasing population indicates widespread environmental habitat problems to various salmonoids due to habitat degradation in part due to entirely preventable non point pollution caused by manure applications in flood plains
12. Failed communications between ECY and WSDA for over two months leading to flood plain stored manure being flooded and liquid manure application on frozen snow covered ground not being prevented by timely investigation.
13. Both the WSDA (Sulak) and ECY (Jacobson) Inspection results indicating the voluntary regulations for preventing flood plain non point pollution continue to be ineffective.
14. Problematic manure applications: "Our investigation into these matters highlights some of the challenges of conducting agricultural activities in frequently flooded areas." Marty Jacobson ECY Inspector 4/1/22
15. No RCRA cradle to grave style responsibility for manure, exporting loophole causing stored manure on flood plain inundated by floods causing non point agricultural pollution
16. In practice Winter Period Application of Manure in Washington State [https://efotg.sc.egov.usda.gov/references/public/WA/WA\\_TN14\\_021214.pdf](https://efotg.sc.egov.usda.gov/references/public/WA/WA_TN14_021214.pdf) is ineffective in managing non point pollution in flood plains, particularly item 6 in the Limitations section as historically it has been shown flooding can not be predicted accurately, nor is there any incentive to be mindful of flooding frequently causing non point agricultural pollution without penalty.



01/04/22 Liquid manure applied to snow covered frozen flood plain. Which later on 03/01/22 was flooded. This was about 1/4 mile north of the 500 yards reported on 10/06/22 which was also flooded. This was in the fall and was on 03/01/22





## 2020 State of Our Watersheds

*A Report by the Treaty Tribes in Western Washington*

Adding even more encouragement is the Billy Frank Jr. Salmon Coalition that was created in 2018. The coalition brings together leaders and innovators across policy, science, politics, business, conservation, recreational and other areas who are willing to challenge the status quo on salmon recovery.

*Raucane Rasmus*

WRRIAs 1-23

# Agricultural Pollution in Puget Sound:

Inspiration to Change Washington's  
Reliance on Voluntary Incentive  
Programs to Save Salmon

The long-term effects of agricultural pollution on Puget Sound's salmon populations have been well documented. The remaining populations of salmon are at less than 5 percent of their historical levels.

April 2016



Western  
Environmental  
Law Center



Agency of Agriculture, Food & Markets  
Ag Resource Management Division  
116 State Street  
Montpelier, VT 05620  
[www.VermontAgriculture.com](http://www.VermontAgriculture.com)

(phone) 802-828-2431  
(fax) 802-828-2361

Dear Floodplain Farmer,

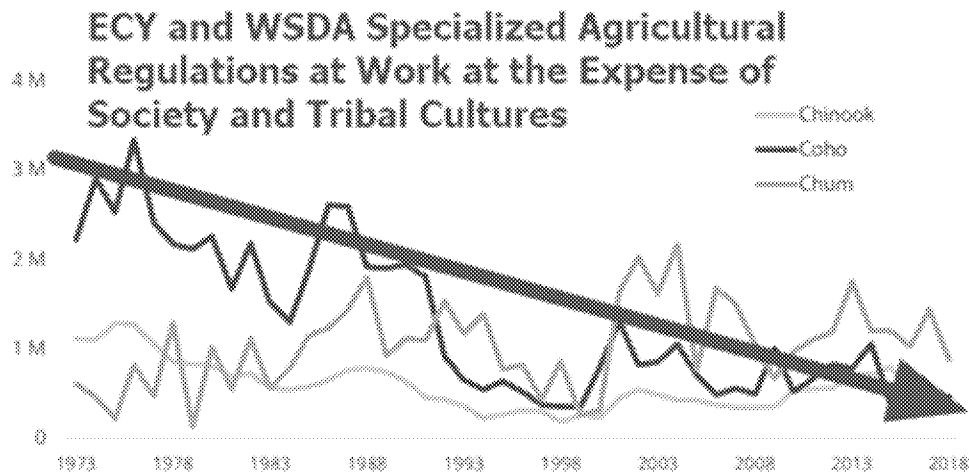
Enclosed you will find a packet of information that will assist you with understanding and complying with the State's new requirements for agricultural fields located in a floodplain. These new requirements are detailed in the new Required Agricultural Practices (RAPs) which set baseline management requirements for farms of all sizes in Vermont. Compliance for the 2017 and 2018 cropping seasons begins with first understanding where and how the new floodplain RAPs apply on your farm and second, with taking proactive steps to plan to comply and meet the dates outlined in the RAPs.

The Agency of Ag is here to support you and your farm to understand the rules, assist with planning efforts if requested, and to provide technical and financial assistance directly to your farm to implement new management strategies, which may be required to comply with the rules. If at any time you have questions regarding how these new rules apply to your farm, please call the Agency of Ag Water Quality Division directly at: 802-828-2431

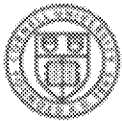
The RAPs for agricultural floodplain management include:

1. An extended winter manure spreading ban on frequently flooded soils: From October 16<sup>th</sup> – April 14<sup>th</sup>
2. Any manure applied to floodplains must be injected or otherwise incorporated within 48 hours, unless the field is in no-till, is cover cropped, or is planted to hay, pasture, or other perennial crop.
3. For floodplain fields that grow annual crops (e.g. corn for silage, sweet corn, soybeans, pumpkins), frequently flooded soils on those fields must be planted to cover crop by:
  - a. October 1<sup>st</sup> if the cover crop is broadcast on the surface
  - b. October 15<sup>th</sup> if the cover crop is drilled or otherwise incorporated into the soil
  - c. OR maintain 30% cover on the surface of the crop field after harvest (e.g. weeds, post-harvest residue (chaff))

### Salmon harvest, commercial and recreational catch



Source: Washington Department of Fish and Wildlife. Data is for hatchery and wild coho, chum, and Chinook salmon caught (tribal and non-tribal) in the state's rivers and the ocean as reflected on sport catch record cards and commercial landings.



### **10 Commandments of Manure Application**

*(King James version)*

1. Thou shalt not spread manure within 20' of a ditch, intermittent stream, or surface inlet unless injected or immediately incorporated. Thou shalt record the date and time of such application.
2. Thou shalt not spread manure within 100' of a pond, lake, wetland, or perennial stream unless an adequate vegetated buffer strip has been established then thou may not spread closer than 35'.
3. Thou shalt not apply manure in fall or winter to open ground on high leaching index fields without first planting winter hardy cover crops where manure will be applied.
4. Thou shalt not spread manure on saturated, frozen, or snow covered soils unless such spreading is absolutely necessary. When absolutely necessary, thou shalt not spread within 48 hours of a predicted rainfall, snowmelt, or other runoff conditions.
5. Thou shalt not spread manure within 100' of any well – yours or your neighbor's well. Thou shalt know where wells border thy fields and the potential for groundwater contamination from thy farm's activity! Thou shalt request information on the location of thy neighbor's (or rental landowner's) wells.
6. Thou shalt not locate temporary manure piles within 300' of a well, surface water, or surface inlet. Thou shalt locate them where clean water will be excluded and access is practical even during poor weather conditions.
7. Thou shalt not spread manure in the fall or winter on fields that have a potential to flood.
8. Thou shalt not exceed the soil's infiltration or water holding capacity in any total single application of liquid manure. Thou shalt adjust this amount to avoid runoff or loss to subsurface tile drains.
9. Thou shalt not allow fall and winter manure applications to exceed 50% of the next crop's nitrogen needs.
10. Thou shalt not commence manure spreading without an annual detailed review from thy crop consultant. Thou may reduce, but thou shalt not exceed, the recommended applications rates.

### **General Application Guidelines for Manure from Winter Feeding Stations**

Manure is an excellent source of nutrients and organic matter for crop, pasture, and hay, fields. In spite of the known benefits for increasing crop yields, plant nutrients such as commercial fertilizer and manure are under increasing scrutiny due to concerns with water quality. Although healthy stands of perennial vegetation reduce runoff and soil loss, surface applied manure can still pose a risk to water quality. Use the following guidelines to minimize risks to surface and groundwater.

- Take soil tests every four years on fields where manure will be applied. Apply manure on the basis of crop nitrogen needs (N Basis) where soil test phosphorus levels (STP) are below 40-50 lbs. P/acre. Apply on the basis of phosphorus needs (P Basis) when STP levels are greater than 40-50 lbs. P/acre.
- Apply manure at the rate shown in Table 1 below, according to the amount of excess feed in the manure.
- Reduce commercial fertilizer rates when using manure as a nutrient source.
- Pastures grazed intensively seldom need significant applications of supplemental phosphorus or potassium as nearly 80% of these nutrients consumed by livestock are excreted in their manure.
- Service and calibrate application equipment to ensure manure is applied uniformly and at the correct rate. Do not clean application equipment in areas where water can get into a well, stream, river, or other waterbody.
- Do not apply manure within 200 feet of a stream, river, well, sink hole, tile drain inlet, or other waterbody. Consider larger setbacks on slopes greater than 5 percent.
- Do not apply manure on steep slopes unless measures are taken to control both soil erosion and runoff.
- Do not apply manure in sensitive areas (e.g. areas where the water table is 1 foot deep or less, where soils are extremely sandy or gravelly, in wetland areas, on fields that are saturated, on grassed waterways, in drainage areas, next to streams, or in a flood plain).
- Avoid manure applications on frozen or snow covered ground. If manure must be applied on frozen or snow covered ground, do so on areas where surface runoff is controlled.
- Do not apply prior to precipitation events where runoff amount or intensity would be expected to cause runoff.
- Avoid application when soils are wet in order to prevent compaction and rutting.
- Spread at times and in ways that will minimize potential odor problems (e.g. spread when the wind is not blowing, spread in the morning when the air is rising rather than in the afternoon, during holidays, etc.).
- Keep good records of manure applications. Record the crops grown, field(s) and acres that manure is applied to, rate of application, total amount of manure applied, time of application, conditions during application, crop yields, and soil and manure test results.

On Fri, Apr 15, 2022 at 11:39 AM Rau, Ben (ECY) <[benr461@ecy.wa.gov](mailto:benr461@ecy.wa.gov)> wrote:

Hello  Ex: 5 Personal Privacy (PP)

Marty forwarded these emails to me. Unfortunately, it looks like you didn't have my email address when you sent them. Do you want to set up some time to talk and I may be able to answer a few of your questions?

Respectfully, Ben

*Ben Rau*

Washington State Department of Ecology  
Water Quality Program, Watershed Planning Unit  
fax: (360) 407-6426

cell: (360) 742-6529  
[ben.rau@ecy.wa.gov](mailto:ben.rau@ecy.wa.gov)

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**From:** Jacobson, Marty (ECY) <[MAJA461@ECY.WA.GOV](mailto:MAJA461@ECY.WA.GOV)>  
**Sent:** Friday, April 15, 2022 10:42 AM  
**To:** Rau, Ben (ECY) <[benr461@ECY.WA.GOV](mailto:benr461@ECY.WA.GOV)>  
**Subject:** FW: Pioneer Highway Near Silvana and Other Dairy Manure Applications

Hi Ben,

A follow up email from Ex. 6 Personal Privacy (PP) that was addressed to you so I thought you should see it.

Marty

---

**From:** Ex. 6 Personal Privacy (PP) <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>  
**Sent:** Friday, April 15, 2022 6:35 AM  
**To:** Sulak, Daniel (AGR) <[DSulak@agr.wa.gov](mailto:DSulak@agr.wa.gov)>  
**Cc:** [Pirzadeh.Michelle@epa.gov](mailto:Pirzadeh.Michelle@epa.gov); [Julia.Reitan@washington.sierraclub.org](mailto:Julia.Reitan@washington.sierraclub.org); Watson, Laura (ECY) <[lawa461@ECY.WA.GOV](mailto:lawa461@ECY.WA.GOV)>; [Regan.Michael@epa.gov](mailto:Regan.Michael@epa.gov); [EOC.EPAHQ@epa.gov](mailto:EOC.EPAHQ@epa.gov); Flege, Kyrre (AGR) <[KFlege@agr.wa.gov](mailto:KFlege@agr.wa.gov)>; [washington@tnc.org](mailto:washington@tnc.org); [Anson.Tebbetts@vermont.gov](mailto:Anson.Tebbetts@vermont.gov); [Terry.Smith@vermont.gov](mailto:Terry.Smith@vermont.gov); [psa@pugetsoundkeeper.org](mailto:psa@pugetsoundkeeper.org); [peak.nicholas@epa.gov](mailto:peak.nicholas@epa.gov); Andrew Hawley <[hawley@westernlaw.org](mailto:hawley@westernlaw.org)>; Craig Bowhay <[cbowhay@nwifc.org](mailto:cbowhay@nwifc.org)>; [steveo@co.skagit.wa.us](mailto:steveo@co.skagit.wa.us); [rickh@co.skagit.wa.us](mailto:rickh@co.skagit.wa.us); Piazza, Millie (ECY) <[mpia461@ECY.WA.GOV](mailto:mpia461@ECY.WA.GOV)>; Thomas, Jamila (GOV) <[Jamila.Thomas@gov.wa.gov](mailto:Jamila.Thomas@gov.wa.gov)>; Blackmore, Laura (PSP) <[laura.blackmore@psp.wa.gov](mailto:laura.blackmore@psp.wa.gov)>; Mitchell, Alex (PSP) <[alex.mitchell@psp.wa.gov](mailto:alex.mitchell@psp.wa.gov)>; Stroming, Ahren (PSP) <[ahren.stroming@psp.wa.gov](mailto:ahren.stroming@psp.wa.gov)>; Sandison, Derek (AGR) <[DSandison@agr.wa.gov](mailto:DSandison@agr.wa.gov)>; RCO MI General Info (RCO) <[info@rco.wa.gov](mailto:info@rco.wa.gov)>; Adicks, Kyle K (DFW) <[Vincent.Adicks@dfw.wa.gov](mailto:Vincent.Adicks@dfw.wa.gov)>; Neatherlin, Erik (GSRO) <[erik.neatherlin@gsro.wa.gov](mailto:erik.neatherlin@gsro.wa.gov)>; Jacobson, Marty (ECY) <[MAJA461@ECY.WA.GOV](mailto:MAJA461@ECY.WA.GOV)>; [info@charlietebbutt.com](mailto:info@charlietebbutt.com); [info@blueriverlaw.com](mailto:info@blueriverlaw.com); [jlaughlin@cascwild.org](mailto:jlaughlin@cascwild.org); [nick@cascwild.org](mailto:nick@cascwild.org); [nrdcinfo@nrdc.org](mailto:nrdcinfo@nrdc.org); Ex. 6 Personal Privacy (PP) <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>; [blanouette@upperskagit.com](mailto:blanouette@upperskagit.com); [michaelk@skagitlandtrust.org](mailto:michaelk@skagitlandtrust.org); [vonessen.ashley@nisqually-nsn.gov](mailto:vonessen.ashley@nisqually-nsn.gov)  
**Subject:** Re: Pioneer Highway Near Silvana and Other Dairy Manure Applications

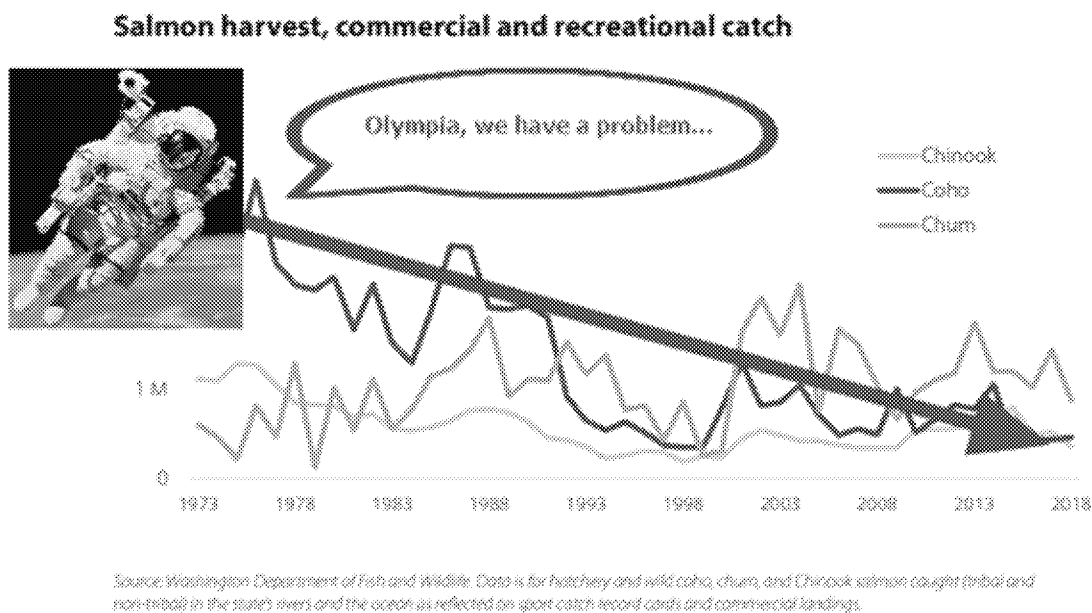
THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Good morning Mr. Rau, Mr. Sandison, and Ms. McLain,

Please let me know as to when I may receive your responses in favor of your preferred alternative, unnecessary non-point agricultural floodplain pollution and membership composition...seems i wrote about a week ago...perhaps I missed it?

Thanking you in advance, awaiting in Stanwood to understand your positions, I am,

Ex. 6 Personal Privacy (PP)



On Wed, Apr 6, 2022 at 11:27 AM **Ex. 6 Personal Privacy (PP)** <[REDACTED]@gmail.com> wrote:

Dear Mr. Rau,

As you may recall in a March 31st email to you and Mr. Peak, I kindly requested a membership roster, contact information including email address, and affiliations for the Agriculture and Water Quality Advisory Committee from you. I am curious about the makeup if it is similar to the Salmon Recovery Funding Board which has only one tribal representative and no environmental group membership. I would expect if the Agriculture and Water Quality Advisory Committee is not equally representative of all stakeholders that such a biased deficit will be addressed in the future. You may find the attached EPA Stakeholder Guide Useful in your endeavors.

Perhaps I have missed this response from you? Could you also include the date of the last meeting, members present, minutes and accomplishments?

I appreciate you scheduling a meeting in the last few days of the Agriculture and Water Quality Advisory Committee as when Mr. Peak informed the committee on March 31st, no meetings were scheduled at that time. If I may be so bold, I have noticed in similar committees I have been a member of such as this, that about two weeks after a meeting the next meeting is scheduled to prevent last minute conflicts.

Because of this last minute scheduling of two weeks or less for meetings held twice per year, I have prior appointment and will have to miss the open meeting. Perhaps as part of the transparency this meeting can be recorded as a webcast and available to watch on line?

Reviewing the posted 2021 Update to the Committee:

<https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-committees/Agriculture-and-Water-Quality-Advisory-Committee>

I see no specific mention of nonpoint agricultural pollution in general within the aforementioned update, and specifically in floodplains not addressed for the western Washington section. As such, with the Agriculture and Water Quality Advisory Committee hands already full of pressing issues, it only reinforces the need for a narrowly focused working group representative of all stakeholders equally to address nonpoint agricultural pollution, starting first with flood plains. I am sure Ms. Watson and Mr. Sandison would be agreeable, unless they can successfully defend their failed and flawed regulatory positions leading to needless pollution and decreased salmon populations as proven over time spanning more than a decade.

You will notice I have underlined your action items so they are not missed. I will add the email addresses of the Agriculture and Water Quality Advisory Committee to this email list so they may be apprised of nonpoint agricultural pollution issues in flood plains as well.

For completeness, I have also included the general contact information for Charlie Tebbutt (Formerly one of the Western Environmental Law Center and the fine work done there), Dan Syder, and Eli Holmes should any of the stakeholders wish to form a consortium to address the issues such as water quality per the CWA not being met through current ECT / WSDA regulations, or tribal treaties not being upheld due to ever decreasing critical salmon populations and loss of habitat, not allowing tribal customs to be kept and resulting loss of culture. For those not familiar with these individuals their websites are below:

<http://charlietebbutt.com/>

<https://blueriverlaw.com/about.html>

Thus, I look forward to two responses:

1) Information provided by you, Mr. Rau, as stated above as underlined, perhaps the contents of this email may be shared at your Agriculture and Water Quality Advisory Committee meeting April 14th anonymously by a "concerned" citizen? I am sure you can make up some nice slides? If run by Robert's Rules of Order, it would fall under "New Business" or "Good of the State".

2) A response from Mr. Sandison or his designee Ms. McLain if he is still of the opinion that a Vermont style floodplain regulation prohibiting manure applications in flood plains during flood season is no better than the current regulations in Washington. Contrary to his opinion, he has been provided objective information in the form of:

- Graphic evidence through pictures of manure in contact with flood waters and applications to frozen snow covered lands in flood plains, the problem being likely much more extensive due to the relatively small flood plain area surveyed and lack of similar complaints. Multiplied through flood plains of the Skagit, Nisqually, Snohomish and other river systems, this non point agricultuyral pollution may be projected to be a serious environmental problem leading to lowered salmon populations
- Historic ERTs complaints over more than a decade describing similar problems
- Farmers unable to manage lagoons applying manure next to drainage canals during typical rainy periods in October in flood plains claiming typical rainfalls are some unexpected phenomena
- Comprehensive reports by the Western Environmental Law Center and NWIFC which have not been implemented for non point pollution in flood plains
- Apparent lack of equal stakeholder representation such as in the Salmon Recovery Funding Board and likely the Agriculture and Water Quality Advisory Committee

- Reports by ECY and WSDA inspectors indicating "challenges" and farmer's general problems in weather and flood forecasting leading to non point pollution through runoff and floods which has been shown to be a chronic occurrence in the ERTs database in flood plains
- USDA BMPs / guidance forgoing manure application in flood plains during the flooding season in flood plains
- An Agriculture and Water Quality Advisory Committee too busy to address or unaware of the non point agricultural pollution problem in floodplains to make it a high priority
- Millions of taxpayer dollars spent with minimal or no impact, while obvious significant non point agricultural floodplain problems due to special interests are ignored
- Remaining salmon populations are at less than 5% of historic levels
- A report from the Governor's office focused on the Loomis bill indicating ever decreasing salmon populations, now at the critical level. The ever decreasing population indicates widespread environmental habitat problems to various salmonoids due to habitat degradation in part due to entirely preventable non point pollution caused by manure applications in flood plains

It would seem a difficult position to defend which chronically creates unnecessary nonpoint agricultural pollution when it has been shown in Vermont and other states that their regulations are sound and do not provide undue hardship for agriculture, totally eliminating the problem altogether. Continued preventable failures may even be considered crimes against society not only for the environmental losses, but the cultural losses as well.

One might think that if a person is doing something unsuccessful/y and someone else is doing something different with greater success, it may be time to be a little more open minded, and perhaps try a proven solution which offers greater success.

Likewise, when there is an ever expanding population of critics clearly indicating your direction is unsuccessful through data and other evidence, it is time to reconsider your approach. It is quite unlikely everyone but you is wrong...

The only people that are happy is the relatively small special interest agricultural community you support with these specially tailored regulations in their favor, at the significantly greater needless expense of society and indigenous cultures.

Ms. Loomis said it best:

*"willing to challenge the status quo on salmon recovery"*

Rather than continue the path of the passenger pigeon for our salmon, I can only hope that Mr. Sandison and Ms. Watson create a focused working group with equal representation of all stakeholders to address nonpoint agricultural pollution problems.

Unfortunately this email is not on par with Ms. Carson, but, in a similar way, it is a call to the regulators to "wake up".

In Stanwood awaiting both responses being shared with all, and thanking you in advance, I am

Ex. 6 Personal Privacy (PP)



03/01/22 stored manure on Stillguamish flloodplain 12 hours after  
crested. Debris on guard rail on road indicated water was at least 1  
foot higher. Reported 10/06/21, spread 04/01/22. This is the  
second flood of the winter the first was in 12/21 Silvana WA



## Salmon harvest, commercial and recreational catch

### ECY and WSDA Specialized Agricultural Regulations at Work at the Expense of Society and Tribal Cultures



Source: Washington Department of Fish and Wildlife. Data is for hatchery and wild coho, chum, and chinook salmon caught (tribal and non-tribal) in the state's rivers and the ocean as reflected on sport catch record cards and commercial landings.

## Agricultural Pollution in Puget Sound:

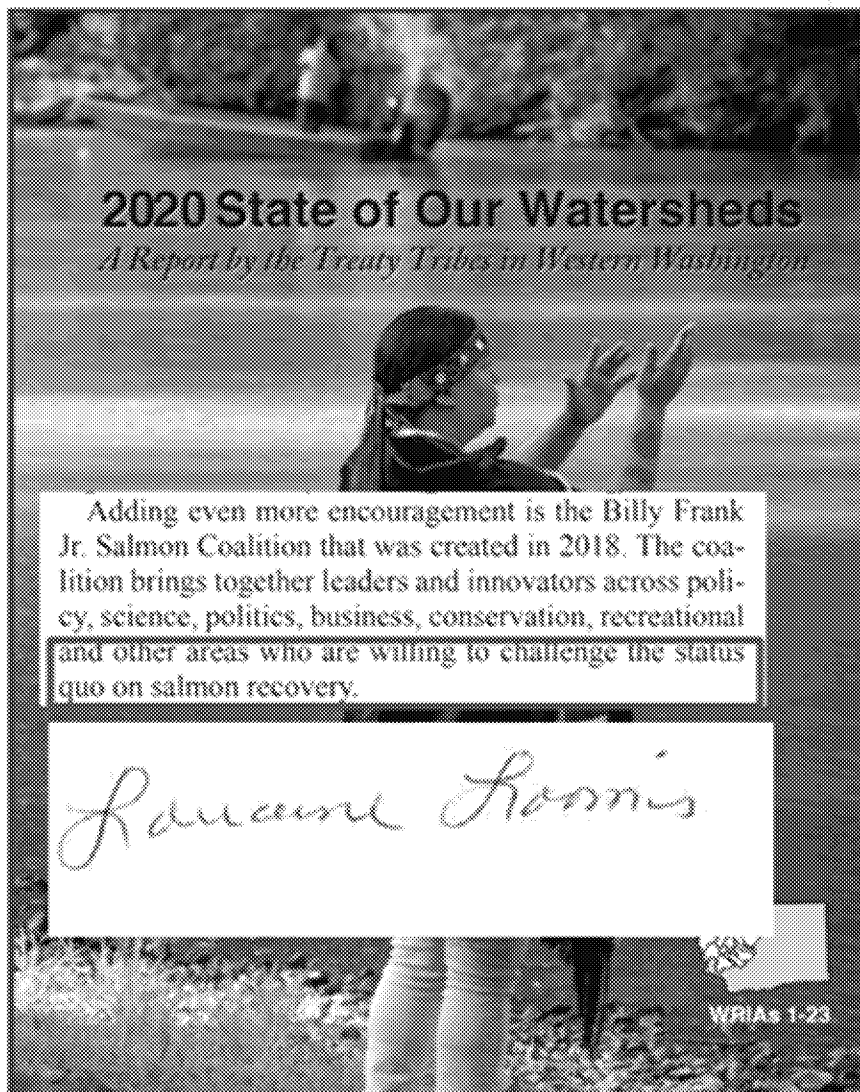
Inspiration to Change Washington's Reliance on Voluntary Incentive Programs to Save Salmon

The loss of salmon has significant social, cultural, and economic consequences. The remaining populations of salmon are at less than 5 percent of their historical levels.

April 2016



Western  
Environmental  
Law Center



*If you do not take an interest  
in the affairs of your government,  
then you are doomed to live under  
the rule of fools.*

*Plato*

On Mon, Apr 4, 2022 at 9:46 PM: **Ex. 6 Personal Privacy (PP)** @gmail.com> wrote:

Mr. Sulak,

Thank you for the fine report you did regarding this 2/21/2022 manure application near Larson Rd discussing the flooding issues causing non point agricultural pollution which can happen through March as you indicate to the farm. We are fortunate to have people such as yourself, just unfortunate to have ineffective regulations in place for reducing non-point agricultural pollution in flood plains. I did notice however, it did not address the high water table as Mr. Jacobson had mentioned. This water table was likely within a foot of the surface or less as the BN bridge lake near the Lutheran church in Silvana was quite high which in itself presents a groundwater contamination issue as well.

Based on what you wrote, because it is up to the applicator as to when to apply on his / her interpretation of weather and flood forecasts as you state, unfortunately, this will be repeated again, as history has shown over the last 15 years in the ERTs database. Which of course degrades the water quality which affects the fisheries and the cycle continues year after year until the populations are as they are today. As previously noted by Mr. Jacobson in his inspection result email and through a picture I supplied flooding this year has resulted in contact with manure in the floodplain twice with the 500' long pile and once for the early January 2022 application on frozen ground and snow which was subsequently flooded in a week.

Mr. Sandison and Ms. Watson, I offer this allowance of forecast interpretation as further documentation and proof that a Vermont type floodplain regulation is necessary here in Washington state replacing the continued failures of the existing floodplain regulations. Again, this also is in accordance with published USDA guidelines for manure applications in flood plains.

Both the WSDA (Sulak) and ECY (Jacobson) in the last few days have sent their inspection results indicating the voluntary regulations for preventing flood plain non point pollution continue to be ineffective.

These issues reported this winter have been seen over a few miles of flood plain roads over a few random trips close to where I live. Based on the square miles of flood plains, number farms, and continued habitat degradation as indicated by salmon decreases to the critical level, it is more than likely these issues are not isolated local instances as well I just happened to see.

Furthermore, as I was the only one to report these applications in an area in which several hundred people drive through on a daily basis, it is even more likely that similar problems are common through flood plains in the Puget Sound as this indicates few people either care or understand the effects of manure in the water of our state.

It has been shown in Vermont that non-point agricultural pollution in flood plains from manure applications can be totally eliminated due to flooding and not present an undue burden to agriculture. Yet in Washington, all the farmer has to to say is:

*"Well, shucky darn, we'll get her right next time"* and the usual "referred to", "working with", and "be careful" solutions in a memo from ECY and WSDA to the farmer...much like an endless do loop.

That has been happening application after application, year after year, the water quality decreases, salmon populations go down, and we are where we are today.

So, Ms. Watson and Mr. Sandison perhaps you can think about what has been sent to you in the last month or two from me as documented objective evidence and your inspectors indicating environmental regulatory failures, reports from environmental groups, and even graphs from the Governor's office echoing the same problems and start to fix the sorry state of affairs we have now by drafting new regulations for flood plain manure applications such as Vermont.

Though I know you want what is best for this state for preventing non-point agricultural pollution in flood plains, your current implementation needs to be replaced, as the data clearly shows.

As written now in the throwing of the dice represented in the weather and flooding forecast, the farmer is always the winner, the environment the loser. The negative results of this gamble year after year are clearly seen. The costs of the pollution are real to society, a degraded environment, lost fish and wildlife populations, less recreation value, and lost cultural traditions for the tribes, while perhaps the farmer makes a few extra dollars. States such as Vermont and the USDA recognize the fallacy of this gamble and no longer roll the dice. Why don't you stop? Isn't it about time you start to work towards meeting the requirements of the CWA in this area?

Looking forward to justification of continuing your existing position, or establishing a non point agricultural pollution working group,

in Stanwood, I am,

Ex. 6 Personal Privacy (PP)

On Mon, Apr 4, 2022 at 2:50 PM Sulak, Daniel (AGR) <[DSulak@agr.wa.gov](mailto:DSulak@agr.wa.gov)> wrote:

Ex. 6 Personal Privacy (PP)

Please find attached the inspection report and technical assistance letter that resulted from investigating your February 21, 2022 report of a manure application.

Regards,

Dan Sulak

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**From:** Flege, Kyrre (AGR) <KFlege@agr.wa.gov>  
**Sent:** Monday, February 21, 2022 10:30:28 AM  
**To:** **Ex. 6 Personal Privacy (PP)** @gmail.com>  
**Cc:** Pirzadeh.Michelle@epa.gov <Pirzadeh.Michelle@epa.gov>; Sandison, Derek (AGR) <DSandison@agr.wa.gov>; Julia.Reitan@washington.sierraclub.org <Julia.Reitan@washington.sierraclub.org>; Watson, Laura (ECY) <lawa461@ECY.WA.GOV>; Andrew Hawley <Hawley@westernlaw.org>  
**Subject:** Re: Pioneer Highway Near Silvana and Other Dairy Manure Applications

Good morning,

Thank you for the referral. I'll enter this into the Environmental Report Tracking System and WSDA's local inspector will follow up.

Best,

**Kyrre Flege** | Acting Program Manager

Dairy Nutrient Management Program

Washington State Department of Agriculture

c. 360.746.1249 — e. [kflege@agr.wa.gov](mailto:kflege@agr.wa.gov)

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**From:** **Ex. 6 Personal Privacy (PP)** @gmail.com>  
**Sent:** Monday, February 21, 2022 7:26:13 AM  
**To:** Flege, Kyrre (AGR) <KFlege@agr.wa.gov>  
**Cc:** Pirzadeh.Michelle@epa.gov <Pirzadeh.Michelle@epa.gov>; Sandison, Derek (AGR) <DSandison@agr.wa.gov>; Julia.Reitan@washington.sierraclub.org <Julia.Reitan@washington.sierraclub.org>; Watson, Laura (ECY) <lawa461@ECY.WA.GOV>; Andrew Hawley <Hawley@westernlaw.org>  
**Subject:** Re: Pioneer Highway Near Silvana and Other Dairy Manure Applications

Greetings...

A few days ago on friday (Feb 18) the local dairy farm was out spreading liquid manure on the flood plain, had the hose right up to the brushy border of the bridge at the river in the corner across from the cement plan ready for connection. probably spread 50-100 acres anyhow, could see nice puddles near the old school house in Silvana where it was currently being applied. Nice heavy application with their finely "calibrated" system.

Last night we recieved 4-6 inches of snow and will have freezing temperatures at night all week long

In summary fresh liquid manure application, snow on top and freezing temperatures at night all week, some days not above freezing all on a river floodplain.

I am sure you will "work with them" to" manage" the application.

Clearly there are multiple instances which have been described in this and previous emails that endanger our public waterways and contrary to agricultural best practices this winter, and many others over the last 15 years.

Each year during the winter, rains, freezing temperatures, floods, and snow falls occur and they are treated as if they are some new phenomena and it is a surprise when it happens with the manure needlessly polluting our waters against agricultural best management practices.

Yet you do nothing to solve the problem other than generate memos which are nicely worded producing no actual results preventing needless non point agricultural pollution.

Please just pack up and go home and save us the taxes at least, your inability or lack of concern is well documented by myself and others.

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Rain

°C °F

Stanwood, WA

6 AM

35°

◆ 50%

9 AM

37°

◆ 10%

12 PM

43°

◆ 10%

3 PM

47°

6 PM

40°

9 PM

33°

12 AM

30°

3 AM

27°

Humidity: 100%

Wind: 3 MPH N

Show More

Mon

47°

29°

Tue

41°

24°

Wed

39°

18°

Thu

45°

23°

Fri

51°

24°

Sat

54°

25°

Sun

52°

43°

Mon

58°

40°

ED\_014329A\_00000117-00034



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On Thu, Feb 17, 2022 at 11:40 AM **Ex. 6 Personal Privacy (PP)** <[REDACTED]@gmail.com> wrote:

Thank you Mr. Flege for looking into the easily preventable agricultural non point pollution sources in this area, including both stored and applied manure inundated by surface waters of the Stillguamish recently.

A few thoughts and clarifications for each item.

Item 1 and Item 4 - This was reported via ERTS on Nov 6th 2021, yet in early January as reported to ECY more manure was still being added to this location. It seems that there was not a timely contact by the WSDA inspector to **Ex. 6 Personal Privacy (PP)** or **Ex. 6 Personal Privacy (PP)** allowing the additional manure to be added.

This is an excessive amount of time, 2 months plus for the inspector to solve the puzzle...could have prevented the added manure had the inspector investigated in a timely manner.

Item 1 - As seen by the level of the sticks and debris from the flood in early January on the nearby road guard rail, water was undoubtedly in contact with the stored manure.

If being "managed" one might think plastic or some non porous membrane or berm was used to seal the sides for the manure pile on the flood plain in an area which typically floods may have been used to prevent flood water contact.

Seems the "management" is waiting to spring to apply the manure..while it leaches into the ground as there is no impermeable membrane required for manure storage either.

"Managed" is doing nothing but sounds impressive as if something was actively being done. Perhaps you can expand upon this proactive management plan.

Another alternative solution may have been to remove the manure, perhaps that can be considered in the future, the cost of this removal may be a deterrent.

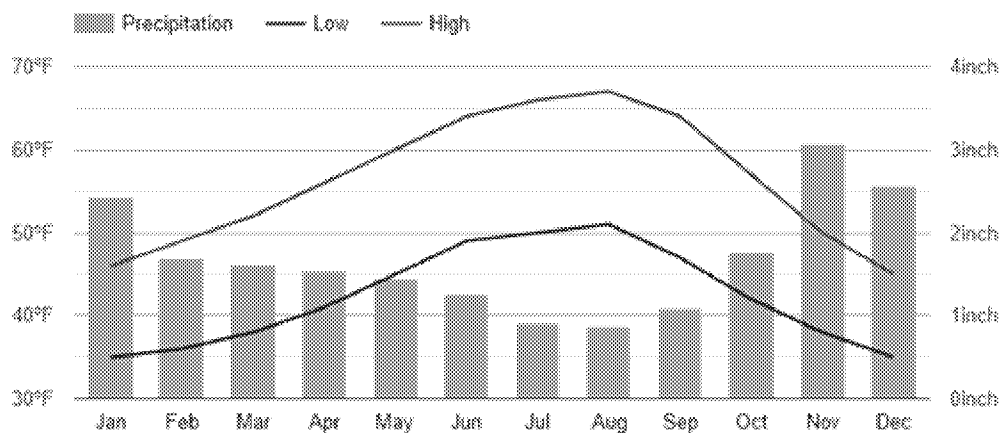
Item 2 - What you wrote sounds nice. You frame this as if "What was the poor man to do"? Surely it was not an excessive wet period for emptying the lagoons. In fact, this required application due to full lagoon just shows poor planning as the graph below indicates November to be the month of highest rainfall in the general region and it would be found that the Stillguamish river frequently historically floods in late October. The rain patterns are not new, yet they are not planned for as usual as seen in this manure application.

You did not mention the date of the sampling, or the sampling strategy / locations, but what you wrote sure sounded good but meaningless without that information, particularly with the delay identified in #1 above. Furthermore you state setbacks for application, my observation during the application was tilled land had the application, including well within 50' of the ditch which communicates to the Stillguamish river.

You state this setback as if you had first hand knowledge when all you are stating is what should have been done passing it off as an actual fact which, once again sounds quite nice, but is worse than meaningless, it is not true.

Av. precipitation in inch	0.91	0.87	1.10	1.77	3.07	2.56
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Whidbey Island Climate Graph - Washington Climate Chart



Item - 3 I drive by this area every few days at a minimum. Before the flood the depression in this area had no surface water, just frozen ground due to the low teen night temperatures, snow, and applied manure. After the flood, it was a large pond, thus having been filled by the flood water washing over the snow and manure into the Stillguamish river. Surface water was clearly evident in this area for well over a week after the flood indicating surface water in the form of a flood passed through the area washing the manure into the Stillaguamish. Seems there are delays in the inspections (as pointed out in #1) so the surface water, so no water evident is no surprise from your perspective.

Though we have essentially the same weather pattern each year with rain starting about Oct 15th with the Stillguamish frequently flooding in October, it continually catches farmers and the like off guard as it is a new and strange phenomena.

Another year, another year of preventable pollution, and another round of "shucky darn, we'll git er right next year fer sure" . In the meantime the waterways of the state and Puget Sound continue to be a manure lagoon.

If a person such as yourself as a regulator is of the perspective that repeated stupidity and lack of concern by the few should be accepted and preferred over the benefit of the many and likely as required in accordance with the CWA, then it would seem that the WSDA is doing a good job protecting our waters. If there are no repercussions for bad behavior, there is no incentive to change the behavior. This mindset results in what happened this winter just as described above as it has in prior years, manure washed into waterways.

You may think I am some environmental or fish extremist, I am not, just I see no sense of repeatedly letting people who create preventable pollution continue to do so year after year...and worse, the regulators such as yourself implicitly condoning the pollution by using double speak and nicely worded action plans and active verbs which have no depth such as the previously mentioned "managing" and continually used "working with" which over time have proven to be ineffective.

Nor am I the first to see this with the WSDA. The Western Environmental Law Center published in 2016 the attached document "Agricultural Pollution in Puget Sound" What I write about specifically above is not new, it echoes this report with specific examples. Eight years later, no change from the report, no improved water quality, manure entering the surface waters without consequences.

As such, it is quite clear that the WSDA is not part of the solution but is at the heart of the problem of agricultural pollution in the Puget Sound, even the easily preventable agricultural pollution due to delayed investigation.

It has been said that "without data you are just a person with an opinion" I hope that you see that I have provided dates and specific examples of a series of non point pollution shortcomings this year, and it would be shown a search of ERTS and my correspondence with ECY over the last 15 years, more specific data could be provided.

We can only hope that eventually the EPA will come to the conclusion that the ECY and WSDA has been, is, and continues to be ineffective in implementing the CWA for the State of Washington, perhaps organizations such as the Western Environmental Law Center or Sierra Club will take an interest in the polluted waters of this state and legally require the ECY and ESDA enforce provisions of the CWA leading to improved water quality for all instead of continued exceptions, protection, arm waving, and hand wringing for the careless few causing the agricultural non point pollution. These reasons which may be of but not limited to social and political should not take precedence over the CWA and are a violation of Federal law.

Finally what is presented above is what I see and have documented, perhaps I am entirely wrong, but unfortunately with the objective evidence provided, I believe that not to be the case.

However, I appreciate you taking the time to respond,

Ex. 6 Personal Privacy (PP)

Stanwood WA

On Tue, Feb 15, 2022 at 2:05 PM **Ex. 6 Personal Privacy (PP)** <[REDACTED]@gmail.com> wrote:

Darn think sent it while typing...

On Tue, Feb 15, 2022 at 2:04 PM **Ex. 6 Personal Privacy (PP)** <[REDACTED]@gmail.com> wrote:

Thank you Mr. Flege for looking into that.

A few thoughts and clarifications for each item.

Item 1 and Item 4 - This was reported via ERTS on Nov 6th 2021, yet in early January as reported to ECY more manure was added. It seems that there was not a timely contact by the inspector to the **Ex. 6 Personal Privacy (PP)** or **Ex. 6 Personal Privacy (PP)** allowing the additional manure to be added.

Why do you think that this delay took place?

On Tue, Feb 15, 2022 at 12:20 PM Flege, Kyrre (AGR) <KFlege@agr.wa.gov> wrote:

Good afternoon **Ex. 6 Personal Privacy (PP)**

Thank you for your message and patience as we worked to gather updates. I'm happy to elaborate on our process and provide you information on what response has occurred related to your concerns. Yes, I've been aware of your communications with Department of Ecology - since you'd been clearly addressing their program, I've only been advising them on the role and response of WSDA.

You might be aware that the Dairy Nutrient Management Act RCW 90.64 gives WSDA authority to implement the Water Pollution Control Act RCW 90.48 at licensed dairies and permitted CAFOs. Our regulatory and enforcement authority is limited to only dairies and CAFOs, but at those farms we have broad authority to ensure protection of water quality. There are no permitted CAFOs in the Lower Stillaguamish Valley, but there are licensed dairies, in which some of the concerns you expressed are within our jurisdiction to address. We use similar technical assistance and enforcement approaches as Ecology when addressing manure management and water quality violations or potential violations. In addition, we

have our own ambient water quality monitoring programs, including monthly sampling in the lower Stillaguamish Miller Creek drainage. When we observe high counts of bacteria in the water we reach out to local dairy producers to evaluate recent manure applications and ensure manure stays on target. Results from that effort are available here: <https://arcg.is/1K0LP90>. We also conduct regular inspections of licensed dairies and permitted CAFOs about every two years which include a look at their facilities as well as how they handle manure application for fertilizing crops.

Fundamentally, the mission of our program is two-fold: to protect water quality from livestock nutrient discharges, and to help maintain a healthy agricultural business climate. Since you asked for specifics on each of your concerns, I'll address those below.

1. "Several hundred cubic yards stored in a long column on Pioneer Hwy near Silvana reported on Nov 6th 2021, dump truck piles at least 500' long"
  - a. Through joint investigation, WSDA and Ecology determined that this material is separated dairy manure solids that was exported from Ex. 6 Personal Privacy (PP) to the landowner Ex. 6 Personal Privacy (PP). This is an export as defined in law, is not in the control of the dairy, and is not in WSDA's jurisdiction as explained above. WSDA coordinated with and referred this property to Ecology to provide technical assistance on what best management practices (BMPs) are appropriate to prevent a violation of state water quality laws. We understand that Ecology has sent a technical assistance letter to the landowner, and I know they and the Conservation District have been in touch with both the exporting dairy owner and the receiving landowner. WSDA met with the conservation district and Ecology and agrees that contrary to previously accepted practices, long term manure storage in a field, in a flood plain is not a best management practice (BMP) and should only be done in an emergency. Short term field storage of manure is a BMP in some states, but is not approved in Washington State. In this case, our agencies are in agreement that the manure currently in place would create a greater threat to local waters if spread prior to a crop nutrient need and when there is still a risk of seasonal runoff. Therefore the best course of action on this case is to manage the pile in place and concentrate on preventing similar occurrences of winter stockpiling in the future.
2. Ex. 6 Personal Privacy (PP) near Stanwood applying manure on about 5-10 acres adjacent to a canal in communication with the Stillaguamish, also report Nov 6th 2021"
  - a. When the report came to WSDA from Ecology through the Environmental Report Tracking System (ERTS), WSDA responded by contacting the dairy producer and confirmed that this manure application was conducted by and under the control of Ex. 6 Personal Privacy (PP). WSDA reviewed the details of the manure application with the dairy operator. The dairy applied at a low rate which allowed for infiltration of manure into the soil and had waited for a decent weather window. Setbacks were 80-100 feet. Overall WSDA found that despite the risky seasonal timing of the application, field and application conditions and decision making resulted in a low risk of discharge to surface water. Water sampling that occurred after the application did not detect bacteria from runoff and WSDA concluded that there was not a violation. Conditions creating a need to apply manure at this time of year to manage manure storage levels are complicated and

at least in part are due to the excessive wet period that occurred the prior fall when dairy farms would typically empty remaining manure from their winter manure storage in preparation for the wet season as outlined in their Dairy Nutrient Management Plans.

3. "Manure applied to frozen ground covered with snow on about 5 acres in close proximity to the storage piles in #1 above during the first week of January 2022 which was also reported"

a. This complaint was received through ERTS as well, and while it took a few days to determine the responsible party and jurisdiction, WSDA determined that the manure application was conducted by a licensed dairy, **Ex. 6 Personal Privacy (PP)** WSDA responded by contacting the dairy by phone, but has not received a response. This is an ongoing investigation and WSDA is scheduling an inspection at the farm to follow up on this incident to discuss best management practices and enforce violations if necessary. While our investigation has not shown this field to be flooded as you say, application of nutrients to frozen ground is a bad practice and creates a potential for pollution.

4. "More manure, a few truck loads added to the manure listed in number 1 above in early January 2022 which was also reported."

a. This would be considered a further export of manure from **Ex. 6 Personal Privacy (PP)** and I would ask that you refer to my comments under number 1 above.

I hope that this information provides clarity around WSDA and ECY's partnership to address potential agricultural pollution. We work closely to ensure that agricultural practices are conducted in a way that maintains compliance with the Water Pollution Control Act. If you have any further questions, please reach out.

Best regards,

**Kyrre Flege**

Acting Program Manager | Dairy Nutrient Management

Washington State Department of Agriculture

c: (360) 746-1249 | e: [kflege@agr.wa.gov](mailto:kflege@agr.wa.gov)

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**From:** **Ex. 6 Personal Privacy (PP)** [@gmail.com](mailto:Ex.6PersonalPrivacy(PP)@gmail.com)

**Sent:** Monday, February 14, 2022 2:50 PM

**To:** Flege, Kyrre (AGR) <[KFlege@agr.wa.gov](mailto:KFlege@agr.wa.gov)>

**Subject:** Re: Pioneer Highway Near Silvana and Other Dairy Manure Applications

External Email

Thank you Mr. Flege, I appreciate your efforts.

Ex. 6 Personal Privacy (PP)

On Mon, Feb 14, 2022 at 12:44 PM Flege, Kyrre (AGR) <[KFlege@agr.wa.gov](mailto:KFlege@agr.wa.gov)> wrote:

Hi Ex. 6 Personal Privacy (PP)

Thank you for your email. I had good intentions of getting back to you last week and that was foiled by the busyness of catching up Ex. 6 Personal Privacy (PP) I am getting input from our field inspectors and will get you a response by the end of this week. Sorry for the hold up.

Best,

**Kyrre Flege**

Acting Program Manager | Dairy Nutrient Management

Washington State Department of Agriculture

c: (360) 746-1249 | e: [kflege@agr.wa.gov](mailto:kflege@agr.wa.gov)

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**From:** Ex. 6 Personal Privacy (PP) [mailto:[Ex. 6 Personal Privacy \(PP\)@gmail.com](mailto:Ex. 6 Personal Privacy (PP)@gmail.com)]

**Sent:** Tuesday, February 8, 2022 8:45 PM

**To:** Flege, Kyrre (AGR) <[KFlege@agr.wa.gov](mailto:KFlege@agr.wa.gov)>

**Subject:** Fwd: Pioneer Highway Near Silvana and Other Dairy Manure Applications

External Email

Please review the email below I had sent to you regarding dairy manure applications and storage near Silvana in your NW region. I had copied your original email address incorrectly and it was bounced back.

I hope you understand, from an outside observer it seems as if there is little concern about these issues by regulators over the last several years, including this year as the storage and applications are contrary to any published best management practices. That coupled with a significant delay of 2 months after reporting, one of the farms caused additional agricultural non point pollution to occur due to a flood which could have easily been avoided.

perhaps you were not notified by the ECY, if not,, the reporting system is clearly broke and needs to be fixed.

So, please read the email from that perspective.

Thank you,

Ex. 6 Personal Privacy (PP)

Stanwood

----- Forwarded message -----

From: **Ex. 6 Personal Privacy (PP)** [redacted]@gmail.com>

Date: Tue, Feb 8, 2022 at 6:11 PM

Subject: Pioneer Highway Near Silvana and Other Dairy Manure Applications

To: <kfege@agr.wa.gov>

Cc: Rau, Ben (ECY) <benr461@ecy.wa.gov>, <Pirzadeh.Michelle@epa.gov>, Jacobson, Marty (ECY) <MAJA461@ecy.wa.gov>, <Julia.Reitan@washington.sierraclub.org>, <laura.watson@ecy.wa.gov>

Dear Mr. Flege,

Several months ago I submitted information to the ECY ERTS database regarding manure applications and storage on Pioneer Highway near Silvana and Stanwood.

Mistakenly I have been pursuing the matter with ECY when the WSDA is responsible as indicated by Mr. Rau from ECY because the responsible parties are dairy operations.

For many years I have been noticing manure applications in the winter months on the Stillguamish flood plain, all would seem against published best management practices. Most I have submitted to the ECY and indicated in their responses to me have indicated their contacting the WSDA on multiple occasions.

This year is no different. There have been 4 applications in the Silvana / Stanwood area on the Stillguamish flood plain you may be familiar through Mr. Jacobson of the ECY. They are:

1) Several hundred cubic yards stored in a long column on Pioneer Hwy near Silvana reported on Nov 6th 2021, dump truck piles at least 500' long

2) Ex. 6 Personal Privacy (PP) near Stanwood applying manure on about 5-10 acres adjacent to a canal in communication with the Stillguamish, also report Nov 6th 2021

3) Manure applied to frozen ground covered with snow on about 5 acres in close proximity to the storage piles in #1 above during the first week of January 2022 which was also reported.

4) More manure, a few truck loads added to the manure listed in number 1 above in early January 2022 which was also reported.

All four of the above reported items have been subject to the Stillguamish flooding in mid January of this year inundating the manure..

In a nice way I wish to point out that based on the above information and what I have seen and reported over many years, the WSDA seems unable to control non point pollution in this area. perhaps there is a joint WDA ECY responsibility, either way, the approach seems to be ineffective.

I would appreciate your thoughts on these four compliance issues listed above including thoughts relative to the responsible parties nutrient management plans, and how the inability of the WSDA to control these and prior non point pollution sources may violate the public trust doctrine regarding the protection of Washington State waters from non point agricultural pollution originating in dairy farms.

Thank you,

Ex. 6 Personal Privacy (PP)

Stanwood